

1           **SECTION 57.** 118.15 (1) (cm) 1. of the statutes is amended to read:

2           118.15 (1) (cm) 1. Upon the child's request and with the approval of the child's  
3           parent or guardian, any child who is 17 years of age or over shall be excused by the  
4           school board from regular school attendance if the child began a program leading to  
5           a high school equivalency diploma in a ~~secured~~ juvenile correctional facility, as  
6           defined in s. 938.02 (15m) (10p), a ~~secured child-caring institution~~ residential care  
7           center for children and youth, as defined in s. 938.02 (15g), a ~~secure~~ juvenile  
8           detention facility, as defined in s. 938.02 (16) (10r), or a juvenile portion of a county  
9           jail, and the child and his or her parent or guardian agree under subd. 2. that the  
10          child will continue to participate in such a program. For purposes of this subdivision,  
11          a child is considered to have begun a program leading to a high school equivalency  
12          diploma if the child has received a passing score on a minimum of one of the 5 content  
13          area tests given under the general educational development test or has  
14          demonstrated under a course of study meeting the standards established under s.  
15          115.29 (4) for the granting of a declaration of equivalency to high school graduation  
16          a level of proficiency in a minimum of one of the 5 content areas specified in s. 118.33  
17          (1) (a) 1. that is equivalent to the level of proficiency that he or she would have  
18          attained if he or she had satisfied the requirements under s. 118.33 (1) (a) 1.

19          **SECTION 58.** 118.15 (5) (b) 2. of the statutes is amended to read:

20          118.15 (5) (b) 2. In a prosecution under par. (a), if the defendant proves that he  
21          or she is unable to comply with the law because of the disobedience of the child, the  
22          action shall be dismissed and the child shall be referred to the court assigned to  
23          exercise jurisdiction under ~~ch. 48~~ chs. 48 and 938.

NOTE: Amends s. 118.15 (5) (b) 2., <sup>stats.</sup>stats., to add a necessary cross-reference to the  
juvenile court under ch. 938, the juvenile justice code.

(plain)

1        **SECTION 59.** 146.82 (2) (a) 18m. of the statutes is amended to read:

2        146.82 (2) (a) 18m. If the subject of the patient health care records is a child  
3 or juvenile who has been placed in a foster home, treatment foster home, group home,  
4 residential care center for children and youth, ~~or a secured~~ juvenile correctional  
5 facility, including a placement under s. 48.205, 48.21, 938.205, or 938.21 or for whom  
6 placement in a foster home, treatment foster home, group home, residential care  
7 center for children and youth, or ~~secured~~ juvenile correctional facility is  
8 recommended under s. 48.33 (4), 48.425 (1) (g), 48.837 (4) (c), or 938.33 (3) or (4), to  
9 an agency directed by a court to prepare a court report under s. 48.33 (1), 48.424 (4)  
10 (b), 48.425 (3), 48.831 (2), 48.837 (4) (c), or 938.33 (1), to an agency responsible for  
11 preparing a court report under s. 48.365 (2g), 48.425 (1), 48.831 (2), 48.837 (4) (c), or  
12 938.365 (2g), to an agency responsible for preparing a permanency plan under s.  
13 48.355 (2e), 48.38, 48.43 (1) (c) or (5) (c), 48.63 (4) or (5) (c), 48.831 (4) (e), 938.355 (2e),  
14 or 938.38 regarding the child or juvenile, or to an agency that placed the child or  
15 juvenile or arranged for the placement of the child or juvenile in any of those  
16 placements and, by any of those agencies, to any other of those agencies and, by the  
17 agency that placed the child or juvenile or arranged for the placement of the child or  
18 juvenile in any of those placements, to the foster parent or treatment foster parent  
19 of the child or juvenile or the operator of the group home, residential care center for  
20 children and youth, or ~~secured~~ juvenile correctional facility in which the child or  
21 juvenile is placed, as provided in s. 48.371 or 938.371.

22        **SECTION 60.** 157.065 (2) (a) 4. c. of the statutes is amended to read:

23        157.065 (2) (a) 4. c. A Type 1 ~~secured~~ juvenile correctional facility, as defined  
24 in s. 938.02 (19);

25        **SECTION 61.** 165.55 (15) of the statutes is amended to read:

1           165.55 (15) The state fire marshal, any deputy fire marshal, any fire chief, or  
2           his or her designee may obtain information relating to a juvenile from a law  
3           enforcement agency, a court assigned to exercise jurisdiction under chs. 48 and 938  
4           or an agency, as defined in s. 938.78 (1), as provided in ss. 938.396 ~~(1x)~~ and (2) (1) (c)  
5           8. and (2g) (j) and 938.78 (2) (b) 1. and may obtain information relating to a pupil from  
6           a public school as provided in ss. 118.125 (2) (ch) and (L) and 938.396 ~~(1m)~~ (1) (d).

7           **SECTION 62.** 165.76 (1) (a) and (2) (b) 2. of the statutes are amended to read:

8           165.76 (1) (a) Is in a <sup>PLAIN</sup> secured juvenile correctional facility, as defined in s. 938.02  
9           ~~(15m)~~ (10p), or a secured ~~child-caring institution~~ residential care center for children  
10          and youth, as defined in s. 938.02 (15g), ~~or a secured group home, as defined in s.~~  
11          938.02 ~~(15p)~~; or on probation, extended supervision, parole, supervision, or aftercare  
12          supervision on or after August 12, 1993, for any violation of s. 940.225 (1) or (2),  
13          948.02 (1) or (2), or 948.025.

14          (2) (b) 2. If the person has been sentenced to prison or placed in a secured  
15          juvenile correctional facility, ~~or a secured child-caring institution or a secured group~~  
16          ~~home~~ residential care center for children and youth, he or she shall provide the  
17          specimen under par. (a) at the office of a county sheriff as soon as practicable after  
18          release on parole, extended supervision, or aftercare supervision, as directed by his  
19          or her probation, extended supervision, and parole agent or aftercare agent, except  
20          that the department of corrections ~~or the county department under s. 46.215, 46.22~~  
21          ~~or 46.23 operating the secured group home in which the person is placed~~ may require  
22          the person to provide the specimen while he or she is in prison or in the secured  
23          juvenile correctional facility, ~~or secured child-caring institution or secured group~~  
24          ~~home~~ residential care center for children and youth.

25          **SECTION 63.** 165.76 (2) (b) 5. of the statutes is amended to read:

1 165.76 (2) (b) 5. Notwithstanding subds. 1. to 3., for persons who are subject  
2 to sub. (1) and who are in prison, a secured juvenile correctional facility, or a secured  
3 ~~child-caring institution~~ residential care center for children and youth or on  
4 probation, extended supervision, parole, supervision, or aftercare supervision on  
5 August 12, 1993, the departments of justice, corrections, and health and family  
6 services shall cooperate to have these persons provide specimens under par. (a)  
7 before July 1, 1998.

8 **SECTION 64.** 165.85 (2) (e) of the statutes is renumbered 165.85 (2) (br) and  
9 amended to read:

10 165.85 (2) (br) "Secure Juvenile detention facility" has the meaning given in  
11 s. 48.02 (16) (10r).

12 **SECTION 65.** 165.85 (2) (f) of the statutes is renumbered 165.85 (2) (bt) and  
13 amended to read:

14 165.85 (2) (bt) "Secure Juvenile detention officer" means any person employed  
15 by any political subdivision of the state or by any private entity contracting under  
16 s. 938.222 to supervise, control, or maintain a ~~secure~~ juvenile detention facility or the  
17 persons confined in a ~~secure~~ juvenile detention facility. "Secure Juvenile detention  
18 officer" includes officers regardless of whether they have been sworn regarding their  
19 duties or whether they serve on a full-time basis.

20 **SECTION 66.** 165.85 (3) (d) of the statutes is amended to read:

21 165.85 (3) (d) Establish minimum curriculum requirements for preparatory  
22 courses and programs, and recommend minimum curriculum requirements for  
23 recertification and advanced courses and programs, in schools operated by or for this  
24 state or any political subdivision of the state for the specific purpose of training law  
25 enforcement recruits, law enforcement officers, tribal law enforcement recruits,

1 tribal law enforcement officers, jail officer recruits, jail officers, ~~secure~~ juvenile  
2 detention officer recruits, or ~~secure~~ juvenile detention officers in areas of knowledge  
3 and ability necessary to the attainment of effective performance as an officer, and  
4 ranging from traditional subjects such as first aid, patrolling, statutory authority,  
5 techniques of arrest, and firearms to subjects designed to provide a better  
6 understanding of ever-increasing complex problems in law enforcement such as  
7 human relations, civil rights, constitutional law, and supervision, control, and  
8 maintenance of a jail or ~~secure~~ juvenile detention facility. The board shall appoint  
9 a 13-member advisory curriculum committee consisting of 6 chiefs of police and 6  
10 sheriffs to be appointed on a geographic basis of not more than one chief of police and  
11 one sheriff from any one of the 8 state administrative districts together with the  
12 director of training of the Wisconsin state patrol. This committee shall advise the  
13 board in the establishment of the curriculum requirements.

14 **SECTION 67.** 175.35 (1) (ag) of the statutes is amended to read:

15 175.35 (1) (ag) "Criminal history record" includes information reported to the  
16 department under s. 938.396 (8) (2g) (n) that indicates a person was adjudicated  
17 delinquent for an act that if committed by an adult in this state would be a felony.

18 **SECTION 68.** 230.36 (1m) (b) 3. <sup>(intro.)</sup> of the statutes is amended to read:

19 230.36 (1m) (b) 3. <sup>(intro.)</sup> A guard, institution aide, or other employee at the University  
20 of Wisconsin Hospitals and Clinics or at a state penal or mental institution, including  
21 a ~~secured~~ juvenile correctional facility, as defined in s. 938.02 (15m) (10p), and a state  
22 probation, extended supervision, and parole officer, at all times while:

23 **SECTION 69.** 230.36 (2m) (a) 20. of the statutes is amended to read:

24 230.36 (2m) (a) 20. A guard or institutional aide or a state probation, extended  
25 supervision and parole officer or any other employee whose duties include

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1 supervision and discipline of inmates or wards of the state at a state penal  
2 institution, including a secured juvenile correctional facility, as defined in s. 938.02  
3 ~~(15m)~~ (10p), or while on parole supervision or extended supervision outside of the  
4 confines of the institutions, or supervision of persons placed on probation by a court  
5 of record, or supervision and care of patients at a state mental institution, and the  
6 University of Wisconsin Hospitals and Clinics.

7 **SECTION 70.** 252.15 (1) (ab) and (2) (a) 7. a. of the statutes are amended to read:

8 252.15 (1) (ab) "Affected person" means an emergency medical technician; first  
9 responder; fire fighter; peace officer; correctional officer; person who is employed at  
10 a secured juvenile correctional facility, as defined in s. 938.02 ~~(15m)~~ (10p), or a  
11 secured ~~child-caring institution~~ residential care center for children and youth, as  
12 defined in s. 938.02 (15g), ~~or a secured group home, as defined in s. 938.02 (15p)~~; state  
13 patrol officer; jailer, keeper of a jail, or person designated with custodial authority  
14 by the jailer or keeper; health care provider; employee of a health care provider; staff  
15 member of a state crime laboratory; social worker; or employee of a school district,  
16 cooperative educational service agency, charter school, private school, the Wisconsin  
17 Educational Services Program for the Deaf and Hard of Hearing, or the Wisconsin  
18 Center for the Blind and Visually Impaired.

19 (2) (a) 7. a. If all of the conditions under subd. 7. ai. to c. are met, an emergency  
20 medical technician; first responder; fire fighter; peace officer; correctional officer;  
21 person who is employed at a secured juvenile correctional facility, as defined in s.  
22 938.02 ~~(15m)~~ (10p), or a secured ~~child-caring institution~~ residential care center for  
23 children and youth, as defined in s. 938.02 (15g), ~~or a secured group home, as defined~~  
24 ~~in s. 938.02 (15p)~~; state patrol officer; jailer, keeper of a jail, or person designated with  
25 custodial authority by the jailer or keeper, during the course of providing care or

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1 services to an individual; a peace officer, correctional officer, state patrol officer,  
2 jailer, or keeper of a jail, or person designated with custodial authority by the jailer  
3 or keeper, while searching or arresting an individual or while controlling or  
4 transferring an individual in custody; a health care provider or an employee of a  
5 health care provider, during the course of providing care or treatment to an  
6 individual or handling or processing specimens of body fluids or tissues of an  
7 individual; a staff member of a state crime laboratory, during the course of handling  
8 or processing specimens of body fluids or tissues of an individual; social worker; or  
9 an employee of a school district, cooperative educational service agency, charter  
10 school, private school, the Wisconsin Educational Services Program for the Deaf and  
11 Hard of Hearing, or the Wisconsin Center for the Blind and Visually Impaired, while  
12 performing employment duties involving an individual; who is significantly exposed  
13 to the individual may subject the individual's blood to a test or a series of tests for  
14 the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV  
15 and may receive disclosure of the results.

16 **SECTION 71.** 252.15 (5) (a) 19. of the statutes is amended to read:

17 252.15 (5) (a) 19. If the test was administered to a child who has been placed  
18 in a foster home, treatment foster home, group home, residential care center for  
19 children and youth, or ~~secured~~ juvenile correctional facility, as defined in s. 938.02  
20 (15m) (10p), including a placement under s. 48.205, 48.21, 938.205, or 938.21 or for  
21 whom placement in a foster home, treatment foster home, group home, residential  
22 care center for children and youth, or ~~secured~~ juvenile correctional facility is  
23 recommended under s. 48.33 (4), 48.425 (1) (g), 48.837 (4) (c), or 938.33 (3) or (4), to  
24 an agency directed by a court to prepare a court report under s. 48.33 (1), 48.424 (4)  
25 (b), 48.425 (3), 48.831 (2), 48.837 (4) (c), or 938.33 (1), to an agency responsible for

1 preparing a court report under s. 48.365 (2g), 48.425 (1), 48.831 (2), 48.837 (4) (c), or  
2 938.365 (2g), to an agency responsible for preparing a permanency plan under s.  
3 48.355 (2e), 48.38, 48.43 (1) (c) or (5) (c), 48.63 (4) or (5) (c), 48.831 (4) (e), 938.355 (2e),  
4 or 938.38 regarding the child, or to an agency that placed the child or arranged for  
5 the placement of the child in any of those placements and, by any of those agencies,  
6 to any other of those agencies and, by the agency that placed the child or arranged  
7 for the placement of the child in any of those placements, to the child's foster parent  
8 or treatment foster parent or the operator of the group home, residential care center  
9 for children and youth, or ~~secured~~ juvenile correctional facility in which the child is  
10 placed, as provided in s. 48.371 or 938.371.

11 **SECTION 72.** 301.01 (2) (b) of the statutes is amended to read:

12 301.01 (2) (b) Any resident of a ~~secured~~ juvenile correctional facility, or a  
13 ~~secured child-caring institution or a secured group home~~ residential care center for  
14 children and youth.

15 **SECTION 73.** 301.01 (3k) of the statutes is amended to read:

16 301.01 (3k) "~~Secured child-caring institution~~ residential care center for  
17 children and youth" has the meaning given in s. 938.02 (15g).

18 **SECTION 74.** 301.01 (3m) of the statutes is renumbered 301.01 (1m) and  
19 amended to read: *strike*

20 301.01 (1m) "~~Secured~~ Juvenile correctional facility" has the meaning given in  
21 s. 938.02 ~~(15m)~~ (10p).

22 **SECTION 75.** 301.01 (4) of the statutes is amended to read:

23 301.01 (4) "State correctional institution" means a state prison under s. 302.01  
24 or a ~~secured~~ juvenile correctional facility operated by the department.

25 **SECTION 76.** 301.01 (3p) of the statutes is repealed.



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NOTE: Deletes the definition of "secured group home" in s. 301.01 (3p). See the note to s. 938.02 (15p) in this draft.

SECTION 77. 301.027 of the statutes is amended to read:

**301.027 Treatment program at one or more juvenile-secured correctional facilities.** The department shall maintain a cottage-based intensive alcohol and other drug abuse program at one or more juvenile secured correctional facilities.

SECTION 78. 301.03 (10) (d), (e) and (f) of the statutes are amended to read:

301.03 (10) (d) Administer the office of juvenile offender review in the division of juvenile corrections in the department. The office shall be responsible for decisions regarding case planning, and the release of juvenile offenders from secured juvenile correctional facilities or secured ~~child-caring institutions~~ residential care center <sup>S</sup> for children and youth to aftercare placements ~~and the transfer of juveniles to the Racine youthful offender correctional facility named in s. 302.01 as provided in s. 938.357 (4) (d).~~

NOTE: Repeals language in s. 301.03 (10) (d) relating to the authority of DOC to place a juvenile who has been adjudged delinquent in a state prison. See the note to s. 938.357 (4) (d) in this draft.

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(e) Provide educational programs in all ~~secured juvenile~~ correctional facilities operated by the department.

(f) Provide health services and psychiatric services for residents of all ~~secured juvenile~~ correctional facilities operated by the department.

SECTION 79. 301.032 (1) (b) of the statutes is amended to read:

301.032 (1) (b) All records of the department and all county records relating to juvenile delinquency-related services shall be open to inspection at all reasonable hours by authorized representatives of the federal government. Notwithstanding s. ss. 48.396 (2) and 938.396 (2), all county records relating to the administration of

1 such those services shall be open to inspection at all reasonable hours by authorized  
2 representatives of the department.

3 **SECTION 80.** 301.08 (1) (b) 3. of the statutes is amended to read:

4 301.08 (1) (b) 3. Contract with public, private, or voluntary agencies for the  
5 supervision, maintenance, and operation of secured juvenile correctional facilities,  
6 residential care centers for children and youth, as defined in s. 938.02 (15d), and  
7 secured ~~child-caring institutions~~ residential care center<sup>S</sup> for children and youth for  
8 the placement of juveniles who have been convicted under s. 938.183 or adjudicated  
9 delinquent under s. 938.183 or 938.34 (4d), (4h), or (4m). The department may  
10 designate a secured juvenile correctional facility, residential care center for children  
11 and youth, or a secured ~~child-caring institution~~ residential care center for children  
12 and youth contracted for under this subdivision as a Type 2 secured juvenile  
13 correctional facility, as defined in s. 938.02 (20), and may designate a residential care  
14 center for children and youth or secured ~~child-caring institution~~ residential care  
15 center for children and youth contracted for under this subdivision as a Type 2 ~~child~~  
16 ~~caring institution~~ residential care center for children and youth, as defined in s.  
17 938.02 (19r).

18 **SECTION 81.** 301.08 (1) (b) 4. of the statutes is repealed. (b) 11

NOTE: Deletes s. 301.08 (1) (b) 4., stats., relating to contracts for secured group  
homes. The concept of "secured group home" is deleted in this draft. See the note to s.  
938.02 (15p) in this draft. (c) 3  
states, as affected by this bill

19 **SECTION 82.** 301.19 (1) (b) of the statutes is amended to read:

20 301.19 (1) (b) "Correctional facility" means an institution or facility, or a portion  
21 of an institution or facility, that is used to confine juveniles alleged or found to be  
22 delinquent or a prison, jail, house of correction, or lockup facility but does not include  
23 a secured group home, as defined in s. 938.02 (15p).

NOTE: See the note to s. 938.02 (15p) in this draft.

, stats, as affected by this bill

**SECTION 83.** 301.205 of the statutes is amended to read:

**301.205 Reimbursement to visiting families.** The department may reimburse families visiting girls at a secured juvenile correctional facility. If the department decides to provide the reimbursement, the department shall establish criteria for the level of reimbursement, which shall include family income and size and other relevant factors.

**SECTION 84.** 301.26 (2) (c) of the statutes is amended to read:

**301.26 (2) (c)** All funds to counties under this section shall be used to purchase or provide juvenile delinquency-related services under ch. 938, except that no funds to counties under this section may be used for purposes of land purchase, building construction, or maintenance of buildings under s. 46.17, 46.175, or 301.37, for reimbursement of costs under s. 938.209, for city lockups, or for reimbursement of care costs in temporary shelter care under s. 938.22. Funds to counties under this section may be used for reimbursement of costs of program services, other than basic care and supervision costs, in juvenile secure detention facilities.

**SECTION 85.** 301.26 (4) (cm) 1. and 2. of the statutes are amended to read:

**301.26 (4) (cm) 1.** Notwithstanding pars. (a), (b), and (bm), the department shall transfer funds from the appropriation under s. 20.410 (3) (cg) to the appropriations under s. 20.410 (3) (hm), (ho), and (hr) for the purpose of reimbursing secured juvenile correctional facilities, secured ~~child caring institutions~~ residential care center<sup>S</sup> for children and youth, alternate care providers, aftercare supervision providers, and corrective sanctions supervision providers for costs incurred beginning on July 1, 1996, for the care of any juvenile 14 years of age or over who has been placed in a secured juvenile correctional facility based on a delinquent act that

or an attempted violation of s. 943.32 (2)  
 that is a conspiracy to commit any of  
 those violations or that is an attempted  
 violation of s. 943.32 (2)

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1 is a violation of s. 943.23 (1m) or (1r), 1999 stats., s. 948.35, 1999 stats., or s. 948.36,  
 2 1999 stats., or s. ~~939.31~~ 939.32 (1) (a), 940.03, ~~940.06~~ 940.21, 940.225 (1), 940.305,  
 3 940.31, 941.327 (2) (b) 4., 943.02, 943.10 (2), 943.23 (1g), 943.32 (2), 948.02 (1),  
 4 948.025 (1), or 948.30 (2) ~~or attempting a violation of s. 938.32 (2)~~ and for the care  
 5 of any juvenile 10 years of age or over who has been placed in a secured juvenile  
 6 correctional facility or secured child-caring institution residential care center for  
 7 children and youth for attempting or committing a violation of s. 940.01 or for  
 8 committing a violation of s. 940.02 or 940.05.

9 2. Notwithstanding pars. (a), (b), and (bm), the department shall transfer funds  
 10 from the appropriation under s. 20.410 (3) (cg) to the appropriations under s. 20.410  
 11 (3) (hm), (ho) and (hr) for the purpose of reimbursing secured juvenile correctional  
 12 facilities, secured ~~child-caring institutions~~ residential care center <sup>S</sup> ~~for children and~~  
 13 youth, alternate care providers, aftercare supervision providers, and corrective  
 14 sanctions supervision providers for costs incurred beginning on July 1, 1996, for the  
 15 care of any juvenile 14 years of age or over and under 18 years of age who has been  
 16 placed in a secured juvenile correctional facility under s. 48.366 based on a  
 17 delinquent act that is a violation of s. 940.01, 940.02, 940.05, or 940.225 (1).

18 **SECTION 86.** 301.26 (4) (d) 2. and 3. of the statutes are amended to read:

19 301.26 (4) (d) 2. Beginning on July 1, 2003, and ending on June 30, 2004, the  
 20 per person daily cost assessment to counties shall be \$183 for care in a Type 1 secured  
 21 juvenile correctional facility, as defined in s. 938.02 (19), \$183 for care for juveniles  
 22 transferred from a juvenile correctional institution under s. 51.35 (3), \$225 for care  
 23 in a residential care center for children and youth, \$142 for care in a group home for  
 24 children, \$47 for care in a foster home, \$88 for care in a treatment foster home, \$86

NOTE: ~~See~~ NOTE following s. 938.34 (4h) (a), Stats.,  
 as affected by this bill.

For an explanation of the changes to  
 s. 301.26 (4)(d) 2., Stats. see the

1 for departmental corrective sanctions services, and \$25 for departmental aftercare  
2 services.

3 3. Beginning on July 1, 2004, and ending on June 30, 2005, the per person daily  
4 cost assessment to counties shall be \$187 for care in a Type 1 secured juvenile  
5 correctional facility, as defined in s. 938.02 (19), \$187 for care for juveniles  
6 transferred from a juvenile correctional institution under s. 51.35 (3), \$239 for care  
7 in a residential care center for children and youth, \$149 for care in a group home for  
8 children, \$49 for care in a foster home, \$92 for care in a treatment foster home, \$87  
9 for departmental corrective sanctions services, and \$26 for departmental aftercare  
10 services.

11 **SECTION 87.** 301.26 (7) (b) 3. of the statutes is amended to read:

12 301.26 (7) (b) 3. Each county's proportion of the number of juveniles statewide  
13 who are placed in a secured juvenile correctional facility, or a secured ~~child-caring~~  
14 ~~institution or a secured group home~~ residential care center for children and youth  
15 during the most recent 3-year period for which that information is available.

16 **SECTION 88.** 301.263 (3) of the statutes is amended to read:

17 301.263 (3) The department shall distribute 33% of the amounts distributed  
18 under sub. (1) based on each county's proportion of the violent Part I juvenile arrests  
19 reported statewide under the uniform crime reporting system of the office of justice  
20 assistance in the department of administration, during the most recent 2-year  
21 period for which that information is available. The department shall distribute 33%  
22 of the amounts distributed under sub. (1) based on each county's proportion of the  
23 number of juveniles statewide who are placed in a secured juvenile correctional  
24 facility, or a secured ~~child-caring institution or a secured group home~~ residential care  
25 center for children and youth during the most recent 2-year period for which that

1 information is available. The department shall distribute 34% of the amounts  
2 distributed under sub. (1) based on each county's proportion of the total Part I  
3 juvenile arrests reported statewide under the uniform crime reporting system of the  
4 office of justice assistance, during the most recent 2-year period for which that  
5 information is available.

6 **SECTION 89.** 301.36 (1) of the statutes is amended to read:

7 301.36 (1) GENERAL AUTHORITY. The department shall investigate and  
8 supervise all of the state prisons under s. 302.01, all secured juvenile correctional  
9 facilities, all secured child caring institutions, all secured group homes residential  
10 care centers for children and youth, and all secure juvenile detention facilities and  
11 familiarize itself with all of the circumstances affecting their management and  
12 usefulness.

13 **SECTION 90.** 301.37 (1) of the statutes is amended to read:

14 301.37 (1) The department shall fix reasonable standards and regulations for  
15 the design, construction, repair, and maintenance of all houses of correction,  
16 reforestation camps maintained under s. 303.07, jails, as defined in s. 302.30,  
17 extensions of jails under s. 59.54 (14) (g), rehabilitation facilities under s. 59.53 (8),  
18 lockup facilities, as defined in s. 302.30, work camps under s. 303.10, Huber facilities  
19 under s. 303.09, and, after consulting with the department of health and family  
20 services, all secured group homes and secure juvenile <sup>PLAIN SPACE</sup> detention facilities, with  
21 respect to their adequacy and fitness for the needs which they are to serve.

22 **SECTION 91.** 301.37 (5) of the statutes is amended to read:

23 301.37 (5) The department's standards and regulations under sub. (1) for  
24 secure juvenile detention facilities apply to private secure juvenile detention  
25 facilities used under s. 938.222. At least annually, the department shall inspect each

such private secure juvenile detention facility with respect to safety, sanitation, adequacy, and fitness, report to the county board and the private entity operating the private secure juvenile detention facility regarding any deficiency found and order the necessary work to correct it. If within 6 months thereafter the work is not commenced, or not completed within a reasonable period thereafter to the satisfaction of the department, the department shall prohibit the use of the private secure juvenile detention facility for purposes of s. 938.222 until the order is complied with.

PLAIN

SECTION 92. 301.45 (1g) (b) and (bm), (3) (a) 2. and (5) (a) 2. of the statutes are amended to read:

301.45 (1g) (b) Is in prison, a secured juvenile correctional facility, or a secured ~~child caring institution or a secured group home~~ residential care center for children and youth or is on probation, extended supervision, parole, supervision, or aftercare supervision on or after December 25, 1993, for a sex offense.

(bm) Is in prison, a secured juvenile correctional facility, or a secured ~~child caring institution or a secured group home~~ residential care center for children and youth or is on probation, extended supervision, parole, supervision, or aftercare supervision on or after December 25, 1993, for a violation, or for the solicitation, conspiracy, or attempt to commit a violation, of a law of this state that is comparable to a sex offense.

(3) (a) 2. If the person has been sentenced to prison or placed in a secured juvenile correctional facility, or a secured ~~child caring institution or a secured group home~~ residential care center for children and youth, he or she is subject to this subsection upon being released on parole, extended supervision, or aftercare supervision.

1 (5) (a) 2. If the person has been sentenced to prison for a sex offense or placed  
2 in a secured juvenile correctional facility, or a secured ~~child-caring institution~~ or a  
3 ~~secured group home~~ residential care center for children and youth for a sex offense,  
4 15 years after discharge from parole, extended supervision, or aftercare supervision  
5 for the sex offense.

6 **SECTION 93.** 301.45 (6) (c) and (d) of the statutes are amended to read:

7 301.45 (6) (c) Notwithstanding par. (a), a person who first became subject to  
8 subs. (2) to (4) under 1995 Wisconsin Act 440 and who was in prison ~~or~~ a secured  
9 juvenile correctional facility, or a secured child-caring institution residential care  
10 center for children and youth, in institutional care, or on probation, parole,  
11 supervision, aftercare supervision, corrective sanctions supervision, conditional  
12 transfer, or conditional release during the period beginning on December 25, 1993,  
13 and ending on May 31, 1997, shall be allowed until January 1, 1998, to comply with  
14 the requirements under subs. (2) to (4).

15 (d) Notwithstanding par. (a), a person who first became subject to subs. (2) to  
16 (4) under 1999 Wisconsin Act 89 and who was in prison ~~or~~ a secured juvenile  
17 correctional facility, or a secured child-caring institution residential care center for  
18 children and youth, in institutional care, or on probation, parole, supervision,  
19 aftercare supervision, corrective sanctions supervision, conditional transfer, or  
20 conditional release during the period beginning on December 25, 1993, and ending  
21 on May 31, 2000, shall be allowed until January 1, 2001, to comply with the  
22 requirements under subs. (2) to (4).

23 **SECTION 94.** 302.11 (10) of the statutes is amended to read:



1           302.11 (10) An inmate subject to an order under s. 48.366 ~~or 938.34 (4h)~~ is not  
2           entitled to mandatory release and may be released or discharged only as provided  
3           under s. 48.366 ~~or 938.538~~. *Deletes* *stats.* *CS* *, stats.*

*bill* NOTE: ~~Repeals~~ in s. 302.11 (10), the reference to s. 938.34 (4h) to reflect that this  
draft repeals the authority of the department of corrections (DOC) to place a juvenile who  
has been adjudicated delinquent in a state prison. See the *note* to s. 938.357 (4) (d) ~~in this~~  
~~draft~~. *stats., as affected by this bill* *=*

4           **SECTION 95.** 302.18 (7) of the statutes is amended to read:

5           302.18 (7) Except as provided in s. 973.013 (3m), the department shall keep a  
6           person under 15 years of age who has been sentenced to the Wisconsin state prisons  
7           in a secured juvenile correctional facility or a secured ~~child caring institution~~  
8           residential care center for children and youth, but the department may transfer that  
9           person to an adult correctional institution after the person attains 15 years of age.  
10          The department may not transfer any person under 18 years of age to the  
11          correctional institution authorized in s. 301.16 (1n).

12          **SECTION 96.** 302.255 of the statutes is amended to read:

13          **302.255 Interstate corrections compact; additional applicability.**

14          “Inmate”, as defined under s. 302.25 (2) (a), includes persons subject to an order  
15          under s. 48.366 who are confined to a state prison under s. 302.01 ~~and persons subject~~  
16          ~~to an order under s. 938.34 (4h) who are 17 years of age or older.~~ *Deletes* *stats.* *CS*

NOTE: ~~Repeals~~ language in s. 302.255, relating to the authority of DOC to place a  
juvenile who has been adjudicated delinquent in a state prison. See the *note* to s. 938.357  
(4) (d) ~~in this draft~~. *stats., as affected by this bill*

17          **SECTION 97.** 302.386 (1), (2) (intro.), (3) (a), *and* (5) (c) and (d) of the statutes are  
18          amended to read:

19          302.386 (1) Except as provided in sub. (5), liability for medical and dental  
20          services furnished to residents housed in prisons identified in s. 302.01 ~~or~~, in a  
21          secured juvenile correctional facility ~~as defined in s. 938.02 (15m)~~, or in a secured

that  
1 ~~child caring institution, as defined in s. 938.02 (15g) residential care center for~~  
2 ~~children and youth, or to forensic patients in state institutions for those services~~  
3 ~~which~~ are not provided by employees of the department shall be limited to the  
4 amounts payable under ss. 49.43 to 49.47, except s. 49.468, for similar services. The  
5 department may waive any such limit if it determines that needed services cannot  
6 be obtained for the applicable amount. No provider of services may bill the resident  
7 or patient for the cost of services exceeding the amount of the liability under this  
8 subsection.

9 (2) (intro.) The liability of the state for medical and dental services under sub.  
10 (1) does not extend to that part of the medical or dental services of a resident housed  
11 in a prison identified in s. 302.01, a secured juvenile correctional facility as defined  
12 in s. 938.02 (15m), or a secured child caring institution, as defined in s. 938.02 (15g)  
13 residential care center for children and youth, for which any of the following applies:

14 (3) (a) Except as provided in par. (b), the department may require a resident  
15 housed in a prison identified in s. 302.01 or in a secured correctional facility, as  
16 defined in s. 938.02 (15m), who receives medical or dental services to pay a  
17 deductible, coinsurance, copayment, or similar charge upon the medical or dental  
18 service that he or she receives. The department shall collect the allowable  
19 deductible, coinsurance, copayment, or similar charge.

20 (5) (c) Any participant in the corrective sanctions program under s. 938.533  
21 unless ~~he or she~~ the participant is placed in a Type 1 secured juvenile correctional facility, as defined  
22 in s. 938.02 (19).

23 (d) Any participant in the serious juvenile offender program under s. 938.538  
24 unless ~~he or she~~ the participant is placed in a Type 1 secured juvenile correctional

1 facility, as defined in s. 938.02 (19), ~~or in a Type 1 prison other than the institution~~  
2 ~~authorized under s. 301.046 (1).~~ <sup>stats.</sup>

<sup>Deletes</sup> NOTE: ~~Repeals~~ language in s. 302.386 (5) (d), relating to the authority of DOC to  
place a juvenile who has been adjudicated delinquent in a state prison. See the note to  
s. 938.357 (4) (d) in ~~this draft.~~ <sup>stats. as affected by this draft bill</sup> <sup>CS</sup>

3 **SECTION 98.** 938.01 (1) (title) and (2) (title) of the statutes are created to read: ✓

4 938.01 (1) (title) TITLE. ✓

5 (2) (title) LEGISLATIVE INTENT. ✓

6 **SECTION 99.** 938.01 (2) (f) of the statutes is amended to read:

7 938.01 (2) (f) To respond to a juvenile offender's needs for care and treatment,  
8 consistent with the prevention of delinquency, each juvenile's best interest and  
9 protection of the public, by allowing the judge court to utilize the most effective  
10 dispositional option. <sup>PLAIN</sup>

11 **SECTION 100.** 938.01 (2) (g) of the statutes is amended to read:

12 938.01 (2) (g) To ensure that victims and witnesses of acts committed by  
13 juveniles that result in proceedings under this chapter are, consistent with <sup>strike</sup> ~~the~~  
14 ~~provisions of this chapter and the Wisconsin constitution, afforded the same rights~~  
15 as victims and witnesses of crimes committed by adults, and are treated with dignity,  
16 respect, courtesy, and sensitivity throughout such those proceedings.

17 **SECTION 101.** 938.02 (5) of the statutes is amended to read:

18 938.02 (5) ~~"Developmentally disabled" means having a developmental~~  
19 ~~disability, as defined in "Developmental disability" has the meaning given in s. 51.01~~ ✓  
20 (5).

21 **SECTION 102.** 938.02 (7) of the statutes is amended to read:

1 938.02 (7) "Group home" means any facility operated by a person required to  
2 be licensed by the department of health and family services under s. 48.625 for the  
3 care and maintenance of 5 to 8 juveniles.

NOTE: Clarifies that the department referred to in s. 938.02 (7) is the department  
of health and family services (DHFS), not DOC. ↑ stats. ↑

4 **SECTION 103.** 938.02 (15d) of the statutes is amended to read:

5 938.02 (15d) "Residential care center for children and youth" means a facility  
6 operated by a child welfare agency licensed under s. 48.60 for the care and  
7 maintenance, and treatment of persons residing in that facility.

NOTE: Adds "treatment" to the list of services in the definition of "residential care  
center for children and youth" in s. 938.02 (15d), stats., since these centers provide  
treatment as well as "care and maintenance".

8 **SECTION 104.** 938.02 (15g) of the statutes is amended to read:

9 938.02 (15g) "~~Secured child caring institution~~ residential care center for  
10 children and youth" means a residential care center for children and youth operated  
11 by a child welfare agency that is licensed under s. 48.66 (1) (b) to hold in secure  
12 custody persons adjudged delinquent.

NOTE: Changes the term "secure child caring institution" to "secured" residential  
care center for children and youth" in s. 938.02 (15g). The subcommittee determined that  
"secured residential care center for children and youth" is a more appropriate term for  
these facilities. stats committee

13 **SECTION 105.** 938.02 (15m) of the statutes is renumbered 938.02 (10p) and  
14 amended to read:

15 938.02 (10p) "**Secured Juvenile** correctional facility" means a correctional  
16 institution operated or contracted for by the department of corrections or operated  
17 by the department of health and family services for holding in secure custody persons  
18 adjudged delinquent. "**Secured Juvenile** correctional facility" includes the Mendota  
19 juvenile treatment center under s. 46.057 and a facility authorized under s. 938.533  
20 (3) (b), 938.538 (4) (b), or 938.539 (5).

NOTE: Changes the term "secured correctional facility" to "juvenile correctional facility" in s. 938.02 (15m) ~~(renumbered (10p) in the draft)~~. There does not appear to be any reason to use "secured correctional facility" instead of "juvenile correctional facility" in ch. 938. "Juvenile correctional facility" is a more descriptive term for a facility that deals solely with juvenile offenders. "Secured correctional facility" does not indicate that the correctional facility is for juvenile offenders. The same comment applies to other facilities defined in this section, including "secure detention facility" in current s. 938.02 (16), the "Type 1 secured correctional facility" in current s. 938.02 (19), and "Type 2 secured correctional facility" in current s. 938.02 (20). These definitions are also revised to use "juvenile" instead of "secure" or "secured".

1 **SECTION 106.** 938.02 (15p) of the statutes is repealed.

NOTE: Repeals the definition of "secured group home" in s. 938.02 (15p). The subcommittee determined that no secured group homes have been established since the concept was first recognized in the statutes and that the concept is unnecessary and unworkable.

2 **SECTION 107.** 938.02 (16) of the statutes is renumbered 938.02 (10r) and  
3 amended to read:

4 938.02 (10r) "Secure Juvenile detention facility" means a locked facility  
5 approved by the department under s. 301.36 for the secure, temporary holding in  
6 custody of juveniles.

NOTE: See the note to s. 938.02 (15m) ~~(renumbered to (10p) in this draft)~~.

7 **SECTION 108.** 938.02 (19) of the statutes is amended to read:

8 938.02 (19) "Type 1 secured juvenile correctional facility" means a secured  
9 juvenile correctional facility, but excludes any correctional institution that meets the  
10 criteria under sub. ~~(15m)~~ (10p) solely because of its status under s. 938.533 (3) (b),  
11 938.538 (4) (b), or 938.539 (5).

NOTE: See the note to s. 938.02 (15m) ~~(renumbered (10p) in this draft)~~.

12 **SECTION 109.** 938.02 (19r) of the statutes is amended to read:

13 938.02 (19r) "Type 2 child caring institution residential care center for  
14 children and youth" means a residential care center for children and youth that is  
15 designated by the department to provide care and maintenance for juveniles who

1 have been placed in the residential care center for children and youth under the  
2 supervision of a county department under s. 938.34 (4d).

NOTE: See the note to s. 938.02 (15g) in this draft.

*15a/3, as affected by this bill*

3 **SECTION 110.** 938.02 (20) of the statutes is amended to read:

4 938.02 (20) "Type 2 secured juvenile correctional facility" means a secured  
5 juvenile correctional facility that meets the criteria under sub. (15m) (10p) solely  
6 because of its status under s. 938.533 (3) (b), 938.538 (4) (b), or 938.539 (5).

NOTE: See the note to s. 938.02 (15m) (renumbered (10p)) in this draft.

*15a/3, as renumbered  
to s. 938.02 (10p) by this  
bill*

7 **SECTION 111.** 938.028 of the statutes is amended to read:

8 **938.028 Custody of Indian children.** The Indian child welfare act Child  
9 Welfare Act, 25 USC 1911 to 1963, supersedes the provisions of this chapter in any  
10 child custody proceeding governed by that act.

11 **SECTION 112.** 938.03 (title) of the statutes is amended to read:

12 **938.03 (title) Time and place of court; absence or disability of judge;**  
13 **court of record.**

14 **SECTION 113.** 938.03 (1) of the statutes is amended to read:

15 938.03 (1) TIME AND PLACE OF COURT. The judge court shall set apart a time and  
16 place to hold court on juvenile matters.

17 **SECTION 114.** 938.03 (2) of the statutes is amended to read:

18 **938.03 (2) ABSENCE OR DISABILITY OF JUDGE.** In the case of the absence or  
19 disability of the judge of a court assigned to exercise jurisdiction under this chapter  
20 and ch. 48, another judge shall be assigned under s. 751.03 to act temporarily in the  
21 judge's place. If the judge assigned temporarily is from a circuit other than the one  
22 for which elected, the judge shall receive expenses as provided under s. 753.073.

23 **SECTION 115.** 938.06 (1) (a) of the statutes is amended to read:

1           **938.06 (1) (a) 1.** In counties with a population of 500,000 or more, the county  
2 board of supervisors shall provide the court with the services necessary for  
3 investigating and supervising cases under this chapter by operating a children's  
4 court center under the supervision of a director who is appointed as provided in under  
5 s. 46.21 (1m) (a). The Except as otherwise provided in this subsection, the director  
6 is the chief administrative officer of the center and of the intake and probation  
7 sections and secure juvenile detention facilities of the center except as otherwise  
8 provided in this subsection. The director is charged with administration of  
9 responsible for managing the personnel of, and administering the services of, the  
10 sections and of the secure juvenile detention facilities, and is responsible for  
11 supervising both the operation of the physical plant and the maintenance and  
12 improvement of the buildings and grounds of the center. ✓

13           1m. The center under subd. 1. shall include investigative services, provided by  
14 the county department, for all juveniles alleged to be in need of protection or services  
15 to be provided by the county department. The center shall also include the and the  
16 services of an assistant district attorney or assistant corporation counsel, or both,  
17 who shall be assigned to the center to provide investigative as well as and legal work  
18 in the cases under this chapter and ch. 48. ✓

19           2. The chief judge of the judicial administrative district shall formulate  
20 establish written judicial ~~policy~~ policies governing intake and court services for  
21 juvenile matters under this chapter and the director of the center shall be charged  
22 ~~with executing the judicial policy~~ execute the policies. The chief judge shall direct  
23 and supervise the work of all personnel of the court, except the work of the district  
24 attorney or corporation counsel assigned to the court. ~~The chief judge, and~~ may  
25 delegate his or her supervisory functions. ✓

1           3. The county board of supervisors shall ~~develop~~ establish policies and  
2       ~~establish necessary~~ rules for the management and administration of the nonjudicial  
3       operations of the children's court center. The director of the center shall report to,  
4       and is responsible to, the director of the county department ~~for the execution of all~~  
5       ~~nonjudicial operational~~ relating to the center director's duty to execute the policies  
6       and rules governing the center, including activities of probation officers whenever  
7       they are not performing services for the court. The director of the center is also  
8       responsible for ~~the preparation and submission~~ preparing and submitting to the  
9       county board of supervisors of the annual budget for the center except for the judicial  
10      functions or responsibilities which are delegated by law to the ~~judge or judges~~ court  
11      and clerk of circuit court. The county board of supervisors ~~shall make provision in~~  
12      ~~the organization of~~ , in organizing the office of director, shall provide for the  
13      devolution of the director's authority in the case of temporary absence, illness,  
14      disability to act, or a vacancy in position and shall establish the general  
15      qualifications for the position. The county board of supervisors also has the authority  
16      to investigate, arbitrate, and resolve any conflict in the administration of the center  
17      as between judicial and nonjudicial operational policy and rules. The county board  
18      of supervisors does not have authority over, and may not assert jurisdiction over, the  
19      disposition of any case or juvenile after a written order is made under s. 938.21 or  
20      if a petition is filed under s. 938.25.

21           4. <sup>PLAINSPACE</sup> ~~All~~ personnel of the intake and probation sections and of the secure juvenile  
22      detention facilities shall be appointed under civil service by the director, except that  
23      existing court service personnel having permanent civil service status may be  
24      reassigned to any of the ~~respective~~ sections within the center specified in this  
25      paragraph subdivision.



1           **SECTION 116.** 938.06 (1) (am) and (b) of the statutes are amended to read:

2           938.06 (1) (am) 1. All intake workers providing services under this chapter who  
3       begin employment after May 15, 1980, shall have the qualifications required to  
4       perform entry level social case work in a county department and shall have  
5       successfully completed 30 hours of intake training, approved or provided by the  
6       department, prior to the completion of the first 6 months of employment in the  
7       position. The department shall monitor compliance with this subdivision according  
8       to rules promulgated by the department.

NOTE: Replaces "social work" with "case work" in s. 938.06 (1) (am) 1., relating to intake worker qualifications. The subcommittee found that this provision is sometimes interpreted to mean there is a necessity to have a degree and license as a social worker, but that many staff who perform social work are not social workers, but: (1) have degrees from 4 year accredited colleges in other human service related fields such as criminal justice, sociology, and psychology; and (2) are trained upon hire to perform in accordance with state law and practice standards.

9           2. The department shall make training programs available annually that  
10       permit intake workers providing services under this chapter to satisfy the  
11       requirements specified under subd. 1.

12           (b) Notwithstanding par. (a), the county board of supervisors may institute  
13       make changes in the administration of services to the children's court center in order  
14       to qualify for the maximum amount of federal and state aid as provided in under sub.  
15       (4) and s. 46.495.

16           **SECTION 117.** 938.06 (2) and (3) of the statutes are amended to read:

17           938.06 (2) COUNTIES WITH A POPULATION UNDER 500,000. (a) In counties having  
18       less than 500,000 population, the county board of supervisors shall authorize the  
19       county department or the court, or both, to provide intake services required by under  
20       s. 938.067 and the staff needed to carry out the objectives and provisions of this  
21       chapter to provide dispositional services under s. 938.069. Intake services under this

chapter shall be provided by employees of the court or the county department and  
may not be subcontracted to other individuals or agencies, except as provided in  
under par. (am). Intake workers shall be governed in their intake work, including  
their responsibilities for ~~recommending~~ requesting the filing of a petition and  
entering into a deferred prosecution agreement, by general written policies which  
shall be formulated established by the circuit judges for the county, subject to the  
approval of the chief judge of the judicial administrative district. stats.

NOTE: Changes, in the last sentence in s. 938.06 (2) (a), "recommending" to  
"requesting" in order to conform with language in current ss. 938.067 (6) and 938.24 (3)  
and (5), stats.

(am) 1. ~~Notwithstanding par. (a), any~~ A county which that had intake services  
under this chapter subcontracted from the county sheriff's department on  
April 1, 1980, may continue to subcontract those intake services from the county  
sheriff's department.

2. ~~Notwithstanding par. (a), any~~ A county in which the county sheriff's  
department operates a secure juvenile detention facility may subcontract intake  
services under this chapter from the county sheriff's department as provided in this  
subdivision. If a county subcontracts intake services under this ~~chapter from the~~  
~~county sheriff's department~~ subdivision, employees of the county sheriff's  
department who staff the secure juvenile detention facility may make secure custody  
determinations under s. 938.208 between the hours of 6 p.m. and 6 a.m. ~~and any~~  
~~determination under s. 938.208 made by an employee of the county sheriff's~~  
~~department~~ Such a determination shall be reviewed by an intake worker employed  
by the court or county department within 24 hours after ~~that determination~~ it is  
made.

more to  
63-17 →

1 (b) 1. All intake workers providing services under this chapter who begin  
2 employment after May 15, 1980, excluding county sheriff's department employees  
3 who provide intake services under par. (am) 2., shall have the qualifications required  
4 to perform entry level social case work in a county department. All intake workers  
5 providing services under this chapter who begin employment after May 15, 1980,  
6 including county sheriff's department employees who provide intake services under  
7 par. (am) 2., shall have successfully completed 30 hours of intake training approved  
8 or provided by the department prior to the completion of the first 6 months of  
9 employment in the position. The department shall monitor compliance with this  
10 subdivision according to rules promulgated by the department.

states, as affected by  
this bill,

NOTE: See the note to s. 938.06 (1) (am) 1. The same comments apply to s. 938.06

(2) (b) 1.

states, as affected by this bill

11 2. The department shall make training programs available annually that  
12 permit intake workers providing services under this chapter to satisfy the  
13 requirements specified under subd. 1.

14 (3) INTAKE SERVICES. The court or county department responsible for providing  
15 intake services under s. 938.067 shall specify one or more persons to provide intake  
16 services. If there is more than one ~~such worker person~~, one of the ~~workers persons~~  
17 shall be designated as chief ~~worker~~ and shall supervise the other workers persons.

18 SECTION 118. 938.06 (5) of the statutes is renumbered 938.06 (5) (a) (intro.) and  
19 amended to read:

20 938.06 (5) SHORT-TERM DETENTION AS A DISPOSITION OR SANCTION OR FOR VIOLATION

21 OF ORDER. (a) (intro.) The county board of supervisors of any county may, by  
22 resolution, authorize the court to use do any of the following:

move  
note  
from  
62-7

(no ID)  
In addition, see

CS

1           1. Use placement in a ~~secure~~ juvenile detention facility or juvenile portion of  
2 the county jail as a disposition under s. 938.34 (3) (f), as a sanction under s. 938.355  
3 (6m) (a) 1g., or as a place of short-term detention under s. 938.355 (6d) (a) 1. or 2.  
4 or (b) 1. or 2. or 938.534 (1) (b) 1. or 2. ~~or to use~~

5           2. Use commitment to a county department under s. 51.42 or 51.437 for special  
6 treatment or care in an inpatient facility, as defined in s. 51.01 (10), as a disposition  
7 under s. 938.34 (6) (am).

8           (b) The use by the court of a disposition under s. 938.34 (3) (f) or (6) (am), a  
9 sanction under s. 938.355 (6m) (a) 1g., or short-term detention under s. 938.355 (6d)  
10 (a) 1. or 2. or (b) 1. or 2. or 938.534 (1) (b) 1. or 2. is subject to any resolution adopted  
11 under this subsection ~~par.~~ (a). Powers and duties of intake  
workers. B

12           **SECTION 119.** 938.067 (intro.) of the statutes is amended to read:

13           **938.067** (intro.) To carry out the objectives ~~and provisions~~ of this chapter but  
14 subject to its limitations, intake workers shall do all of the following:

15           **SECTION 120.** 938.067 (1) (title) of the statutes is created to read:

16           938.067 (1) (title) SCREENING.

17           **SECTION 121.** 938.067 (2) and (3) of the statutes are amended to read:

18           938.067 (2) INTERVIEWING. Interview, ~~unless impossible~~ if possible, any juvenile  
19 who is taken into physical custody and not released, and ~~where,~~ if appropriate,  
20 interview other available concerned parties. If the juvenile cannot be interviewed,  
21 the intake worker shall consult with the juvenile's parent or a responsible adult. No  
22 juvenile may be placed in a ~~secure~~ juvenile detention facility unless the juvenile has  
23 been interviewed in person by an intake worker, except that if the intake worker is  
24 in a place which is distant from the place where the juvenile is or the hour is  
25 unreasonable, as defined by written court intake rules, and if the juvenile meets the

1 criteria under s. 938.208, the intake worker, after consulting by telephone with the  
2 law enforcement officer who took the juvenile into custody, may authorize the secure  
3 holding of the juvenile while the intake worker is en route to the in-person interview  
4 or until 8 a.m. of the morning after the night on which the juvenile was taken into  
5 custody.

6 (3) WHETHER JUVENILE SHOULD BE HELD. Determine whether the juvenile shall  
7 be held under s. 938.205 and such policies as the judge shall promulgate promulgated  
8 under s. 938.06 (1) or (2).

9 SECTION 122. 938.067 (4) (title) of the statutes is created to read:

10 938.067 (4) (title) WHERE JUVENILE SHOULD BE HELD.

11 SECTION 123. 938.067 (5) of the statutes is amended to read:

12 938.067 (5) CRISIS COUNSELING. Provide any necessary crisis counseling during  
13 the intake process ~~when such counseling appears to be necessary.~~

14 SECTION 124. 938.067 (6) (title), (6g) (title) and (6m) (title) of the statutes are  
15 created to read:

16 938.067 (6) (title) REQUEST FOR PETITION; DEFERRED PROSECUTION.

17 (6g) (title) VICTIMS' RIGHTS.

18 (6m) (title) MULTIDISCIPLINARY SCREEN.

19 SECTION 125. 938.067 (7) of the statutes is amended to read:

20 938.067 (7) REFERRALS. Make referrals of cases to other agencies if their  
21 assistance ~~appears to be~~ is needed or desirable.

22 SECTION 126. 938.067 (8) (title) and (8m) (title) of the statutes are created to  
23 read:

24 938.067 (8) (title) INTERIM RECOMMENDATIONS.

25 (8m) (title) TAKING JUVENILES INTO CUSTODY.

1           **SECTION 127.** 938.067 (9) of the statutes is amended to read:

2           938.067 (9) OTHER FUNCTIONS. Perform any other functions ordered by the  
3 court, and, when the court or chief judge requests, assist the court or chief judge of  
4 the judicial administrative district in developing written policies or carrying out its  
5 other duties ~~when the court or chief judge so requests~~.

6           **SECTION 128.** 938.069 (1) (intro.), (c), (dj) and (e) of the statutes are amended  
7 to read:

8           938.069 (1) DUTIES. (intro.) The Subject to sub. (2), the staff of the department,  
9 the court, a county department, or a licensed child welfare agency designated by the  
10 court to carry out the objectives and provisions of this chapter shall:

11           (c) Make an affirmative effort, and investigate and develop resources, to obtain  
12 necessary or desired services for the juvenile and the juvenile's family ~~and~~  
13 ~~investigate and develop resources toward that end~~.

14           (dj) Provide aftercare services for a juvenile ~~who has been~~ released from a  
15 secured juvenile correctional facility, or a secured ~~child caring institution or a~~  
16 ~~secured group home~~ residential care center for children and youth.

17           (e) Perform any other court-ordered functions consistent with this chapter  
18 ~~which are ordered by the court~~.

19           **SECTION 129.** 938.069 (2) (title), (3) (title) and (4) (title) of the statutes are  
20 created to read:

21           938.069 (2) (title) AGENCY APPROVAL NEEDED.

22           (3) (title) INTAKE SERVICES.

23           (4) (title) QUALIFICATIONS OF DISPOSITION STAFF.

24           **SECTION 130.** 938.07 (2) and (3) of the statutes are amended to read:

1           938.07 (2) LICENSED CHILD WELFARE AGENCY. The court may request the services  
2 of a child welfare agency licensed under s. 48.60 in accordance with procedures  
3 established by that agency. The child welfare agency shall receive no compensation  
4 for these services but may be reimbursed out of funds made available to the court for  
5 the actual and necessary expenses incurred in the performance of duties for the  
6 court.

7           (3) COUNTY DEPARTMENT IN POPULOUS COUNTIES. In counties having a population  
8 of 500,000 or more, the court may order the director of the county department may  
9 ~~be ordered by the court~~ to provide services for furnishing emergency shelter care  
10 services to any juvenile whose need therefor for the services, either by reason of need  
11 of protection and services or delinquency, is determined by the intake worker under  
12 s. 938.205. The court may authorize the director to appoint members of the county  
13 department to furnish emergency shelter care services for the juvenile. The  
14 emergency shelter care may be provided as specified in under s. 938.207.

15           SECTION 131. 938.08 (1) and (2) of the statutes are amended to read:

16           938.08 (1) INVESTIGATIONS; REPORTS. It is the duty of each A person appointed  
17 to furnish services to the court as ~~provided in~~ under ss. 938.06 and 938.07 ~~to shall~~  
18 make such any investigations and exercise such any discretionary powers as the  
19 judge court may direct, ~~to~~ keep a written record of such the investigations, and ~~to~~  
20 submit a report to the judge court. The person shall keep informed concerning the  
21 conduct and condition of the juvenile under the person's supervision and shall report  
22 ~~thereon~~ on the conduct and condition as the judge court directs.

23           (2) POWER TO TAKE JUVENILE INTO CUSTODY; LIMITS. Except as provided in sub.  
24 (3) and ss. 938.355 (6d) and 938.534 (1), any a person authorized to provide or  
25 providing intake or dispositional services for the court under s. 938.067 or 938.069

1 has the power of police officers and deputy sheriffs only for the purpose of taking a  
2 juvenile into physical custody when the juvenile comes voluntarily or, is suffering  
3 from illness or injury, or is in immediate danger from his or her surroundings and  
4 removal from the surroundings is necessary.

5 **SECTION 132.** 938.08 (3) of the statutes is amended to read:

6 (a) 938.08 (3) CONDITIONS FOR CERTAIN OTHER PERSONS TO TAKE JUVENILE INTO

7 CUSTODY (intro.) In addition to the law enforcement authority specified in under sub.

8 (2), department personnel designated by the department, personnel of an agency  
9 contracted with under s. 301.08 (1) (b) 3. and designated by agreement between the  
10 agency and the department, and personnel of a county contracted with under s.  
11 301.08 (1) (b) 4. and designated by agreement between the county and the  
12 department have the power of law enforcement authorities to take a juvenile into  
13 physical custody under the following conditions:

14 1. If they are in prompt pursuit of a juvenile who has run away from a secured  
15 juvenile correctional facility, or a residential care center for children and youth, or  
16 a secured group home.

17 2. If the juvenile has failed to return to a secured juvenile correctional facility,  
18 or a residential care center for children and youth, or a secured group home after any  
19 authorized absence.

20 (b) A juvenile who is taken into custody under par. (a) may be returned directly  
21 to the secured juvenile correctional facility, or residential care center for children and  
22 youth, or secured group home and shall have a hearing regarding placement in a  
23 disciplinary cottage or in disciplinary status in accordance with ch. 227.

NOTE: Deletes the reference to "disciplinary cottage" in s. 938.08 (3) (b) because it  
is an outdated concept.

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1           **SECTION 133.** 938.09 (1) to (6) of the statutes are amended to read:

2           938.09 (1) DELINQUENCY. By the district attorney, in any matter arising under  
3 s. 938.12.

4           (2) CIVIL LAW VIOLATION. By the district attorney or, if designated by the county  
5 board of supervisors, by the corporation counsel, in any matter concerning a civil law  
6 violation arising under s. 938.125. If the county board transfers this authority to or  
7 from the district attorney on or after May 11, 1990, the board may do so only if the  
8 action is effective on September 1 of an odd-numbered year and the board notifies  
9 the department of administration of that change by January 1 of that odd-numbered  
10 year.

11           (3) MUNICIPAL ORDINANCE VIOLATION. By the city, village, or town attorney, in  
12 any matter concerning a city, village, or town ordinance violation, respectively,  
13 arising under s. 938.125.

14           (4) COUNTY ORDINANCE VIOLATION. By any an appropriate person designated by  
15 the county board of supervisors in any matter concerning a ~~noneity~~ county ordinance  
16 violation arising under s. 938.125.

17           (5) JUVENILE IN NEED OF PROTECTION OR SERVICES. By the district attorney or, if  
18 designated by the county board of supervisors, by the corporation counsel, in any  
19 matter arising under s. 938.13. If the county board transfers this authority to or from  
20 the district attorney on or after May 11, 1990, the board may do so only if the action  
21 is effective on September 1 of an odd-numbered year and the board notifies the  
22 department of administration of that change by January 1 of that odd-numbered  
23 year.

24           (6) INTERSTATE COMPACT. By any an appropriate person designated by the  
25 county board of supervisors in any matter arising under s. 938.14.

1       **SECTION 134.** 938.10 of the statutes is amended to read:

2       **938.10 Power of the judge to act as intake worker.** The duties of the intake  
3 worker may be carried out ~~from time to time~~ by the judge at his or her discretion, ~~but~~  
4 except that if a request to file a petition is made, a citation is issued, or a deferred  
5 prosecution agreement is entered into, the judge shall be is disqualified from  
6 participating further in the proceedings.

7       **SECTION 135.** 938.12 of the statutes is amended to read:

8       **938.12 Jurisdiction over juveniles alleged to be delinquent.** (1) IN  
9 GENERAL. The court has exclusive jurisdiction, except as provided in ss. 938.17,  
10 938.18, and 938.183, over any juvenile 10 years of age or ~~over~~ older who is alleged  
11 to be delinquent.

12       (2) SEVENTEEN-YEAR OLDS. If a court proceeding has been commenced under this  
13 section before a petition alleging that a juvenile is delinquent is filed before the  
14 juvenile is 17 years of age, but the juvenile becomes 17 years of age before admitting  
15 the facts of the petition at the plea hearing or if the juvenile denies the facts, before  
16 an adjudication, the court retains jurisdiction over the case.

NOTE: Clarifies, in s. 938.12 (2), that a delinquency proceeding is commenced when  
a delinquency petition is filed. [*D.W.B. v. State*, 158 Wis. 2d 398, 462 N.W.2d 520, 521  
(1990).]

17       **SECTION 136.** 938.125 (intro.) and (2) of the statutes are amended to read:

18       **938.125 Jurisdiction over juveniles alleged to have violated civil laws**  
19 **or ordinances.** (intro.) The court has exclusive jurisdiction over ~~any~~ a juvenile  
20 alleged to have violated a law punishable by forfeiture or a county, town, or other  
21 municipal ordinance, except as follows:

22       (2) ~~That the~~ The court has exclusive jurisdiction over ~~any~~ a juvenile alleged to  
23 have violated an ordinance enacted under s. 118.163 (2) only if evidence is provided

1 by the school attendance officer that the activities under s. 118.16 (5) have been  
2 completed or were not required to be completed as provided in s. 118.16 (5m).

3 SECTION 137. 938.13 of the statutes is amended to read:

4 938.13 Jurisdiction over juveniles alleged to be in need of protection  
5 or services. (intro.) The court has exclusive original jurisdiction over a juvenile  
6 alleged to be in need of protection or services which can be ordered by the court, and  
7 if any one or more of the following conditions: applies

8 (4) UNCONTROLLABLE. Whose The juvenile's parent or guardian signs the  
9 petition requesting jurisdiction under this subsection and is unable or needs  
10 assistance to control the juvenile.

11 (6) HABITUALLY TRUANT FROM SCHOOL. Who Except as provided under s. 938.17  
12 (2), the juvenile is habitually truant from school, if and evidence is provided by the  
13 school attendance officer that the activities under s. 118.16 (5) have been completed  
14 or were not required to be completed as provided in s. 118.16 (5m), ~~except as provided~~  
15 ~~under s. 938.17 (2).~~

16 (6m) SCHOOL DROPOUT. Who The juvenile is a school dropout, as defined in s.  
17 118.153 (1) (b).

18 (7) HABITUALLY TRUANT FROM HOME. Who The juvenile is habitually truant from  
19 home and either the juvenile or, a parent, or guardian, or a relative in whose home  
20 the juvenile resides signs the petition requesting jurisdiction and attests in court  
21 that reconciliation efforts have been attempted and have failed.

22 (12) DELINQUENT ACT BEFORE AGE 10. Who, ~~being~~ The juvenile is under 10 years  
23 of age, and has committed a delinquent act as defined in s. 938.12.

24 (14) NOT RESPONSIBLE OR NOT COMPETENT. Who The juvenile has been  
25 determined, under s. 938.30 (5) (c), to be not responsible for a delinquent act by

6  
1 reason of mental disease or defect or ~~who~~ has been determined, under s. 938.30 (5)  
2 (d), to be not competent to proceed.

3 SECTION 138. 938.135 of the statutes is amended to read:

4 938.135 Referral of juveniles to proceedings under ch. 51 or 55. (1)

5 JUVENILE WITH DEVELOPMENTAL DISABILITY OR MENTAL ILLNESS, OR ALCOHOL OR DRUG  
6 DEPENDENCY. If a juvenile alleged to be delinquent or in need of protection or services  
7 is before the court and it appears that the juvenile is developmentally disabled,  
8 mentally ill or to have a developmental disability or mental illness or to be drug  
9 dependent or suffers suffering from alcoholism, the court may proceed under ch. 51  
10 or 55.

11 (2) ADMISSIONS, PLACEMENTS, AND COMMITMENTS TO INPATIENT FACILITIES. Any  
12 voluntary or involuntary admissions, placements, or commitments of a juvenile  
13 made in or to an inpatient facility, as defined in s. 51.01 (10), other than a  
14 commitment under s. 938.34 (6) (am) ~~shall be,~~ are governed by ch. 51 or 55.

15 SECTION 139. 938.15 of the statutes is amended to read:

16 938.15 Jurisdiction of other courts to determine legal custody. Nothing  
17 contained in s. 938.12, 938.13 or 938.14 this chapter deprives ~~other courts~~ another  
18 court of the right to determine the legal custody of juveniles a juvenile by habeas  
19 corpus or to determine the legal custody or guardianship of juveniles a juvenile if the  
20 legal custody or guardianship is incidental to the determination of ~~causes~~ an action  
21 pending in the ~~other courts~~ that court. But the jurisdiction of the court assigned to  
22 exercise jurisdiction under this chapter and ch. 48 is paramount in all cases involving  
23 juveniles alleged to come within the provisions of ss. 938.12 to 938.14.

24 SECTION 140. 938.17 (1) (title), (intro.) and (c) of the statutes are amended to  
25 read:

(title) and

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**938.17 (title) Jurisdiction over traffic, boating, snowmobile, and all-terrain vehicle violations and over civil law and ordinance violations.**

**(1) (intro.) TRAFFIC, BOATING, SNOWMOBILE AND ALL-TERRAIN VEHICLE VIOLATIONS.**

Except for violations of ss. 342.06 (2) and 344.48 (1), and violations of ss. 30.67 (1) and 346.67 (1) when death or injury occurs, courts of criminal and civil jurisdiction shall have exclusive jurisdiction in proceedings against juveniles 16 years of age or older for violations of s. 23.33, of ss. 30.50 to 30.80, of chs. 341 to 351, and of traffic regulations, as defined in s. 345.20, and nonmoving traffic violations, as defined in s. 345.28 (1). A juvenile charged with a traffic, boating, snowmobile, or all-terrain vehicle offense in a court of criminal or civil jurisdiction shall be treated as an adult before the trial of the proceeding except that the juvenile may be held in secure custody only in a ~~secure~~ <sup>juvenile</sup> detention facility. A juvenile convicted of a traffic, boating, snowmobile, or all-terrain vehicle offense in a court of criminal or civil jurisdiction shall be treated as an adult for sentencing purposes except as follows:

(c) If the court of civil or criminal jurisdiction orders the juvenile to serve a period of incarceration of 6 months or more, that court shall petition the court assigned to exercise jurisdiction under this chapter and ch. 48 to order one or more of the dispositions ~~provided in~~ under s. 938.34, including placement of the juvenile in a ~~secured~~ <sup>juvenile</sup> ~~juvenile~~ correctional facility, ~~a secured child caring institution~~ or a secured ~~group home under s. 938.34 (4m)~~ residential care center for children and youth, if appropriate.

**SECTION 141.** 938.17 (2) (a) (title) of the statutes is created to read:

938.17 (2) (a) (title) *Concurrent municipal and juvenile court jurisdiction; ordinance violations.*

**SECTION 142.** 938.17 (2) (a) 2. d. and 3. of the statutes are amended to read:

1           938.17 (2) (a) 2. d. If the municipality specified under subd. 2. b. or c. has not  
2       adopted an ordinance under s. 118.163, the municipal court that may exercise  
3       jurisdiction under subd. 1. is the municipal court that is located in the municipality  
4       where the juvenile resides, if that municipality has adopted an ordinance under s.  
5       118.163.

6           3. When a juvenile is alleged to have violated a municipal ordinance, ~~the~~  
7       juvenile one of the following may be occur:

8           a. ~~Issued~~ The juvenile may be issued a citation directing the juvenile to appear  
9       in municipal court or make a deposit or stipulation and deposit in lieu of appearance;

10          b. ~~Issued~~ The juvenile may be issued a citation directing the juvenile to appear  
11       in the court assigned to exercise jurisdiction under this chapter and ch. 48 or make  
12       a deposit or stipulation and deposit in lieu of appearance as provided in s. 938.237;  
13       or.

14          c. ~~Referred~~ The juvenile may be referred to intake for a determination whether  
15       a petition should be filed in the court assigned to exercise jurisdiction under this  
16       chapter and ch. 48 ~~pursuant to~~ under s. 938.125.

17       **SECTION 143.** 938.17 (2) (b) to (cm) of the statutes are amended to read:

18       938.17 (2) (b) Juvenile court jurisdiction; civil law and ordinance violations.

19       When a juvenile 12 years of age or older is alleged to have violated a civil law  
20       punishable by a forfeiture or ~~where a juvenile is alleged to have violated a municipal~~  
21       ordinance but there is no municipal court in the municipality, ~~the juvenile one of the~~  
22       following may be occur:

23           1. ~~Issued~~ The juvenile may be issued a citation directing the juvenile to appear  
24       in the court assigned to exercise jurisdiction under this chapter and ch. 48 or make

1 a deposit or stipulation and deposit in lieu of appearance as provided in s. 938.237;  
2 or.

3 2. ~~Referred~~ The juvenile may be referred to intake for a determination whether  
4 a petition under s. 938.125 should be filed in the court assigned to exercise  
5 jurisdiction under this chapter and ch. 48 pursuant to s. 938.125.

6 (c) Citation procedures. The citation procedures described in ch. 800 shall  
7 govern proceedings involving juveniles in municipal court, except that this chapter  
8 ~~shall govern~~ governs the taking and holding of a juvenile in custody and par. (cg) ~~shall~~  
9 ~~govern~~ governs the issuing of a summons to the juvenile's parent, guardian, or legal  
10 custodian. When a juvenile is before the court assigned to exercise jurisdiction under  
11 this chapter and ch. 48 upon a citation alleging that the juvenile ~~to have~~ violated a  
12 civil law or municipal ordinance, the procedures specified in s. 938.237 ~~shall~~ apply.  
13 If a citation is issued to a juvenile, the issuing agency shall notify the juvenile's  
14 parent, guardian, and legal custodian within 7 days. The agency issuing a citation  
15 to a juvenile who is 12 to 15 years of age for a violation of s. 125.07 (4) (a) or (b),  
16 125.085 (3) (b), 125.09 (2), 961.573 (2), 961.574 (2), or 961.575 (2) or an ordinance  
17 conforming to one of those statutes shall send a copy to an intake worker under s.  
18 938.24 for informational purposes only.

19 (cg) Summons procedures. After a citation is issued, unless the juvenile and  
20 his or her parent, guardian, and legal custodian voluntarily appear, the municipal  
21 court may issue a summons requiring the parent, guardian ~~and,~~ or legal custodian  
22 of the juvenile to appear personally at any hearing involving the juvenile and, if the  
23 court so orders, to bring the juvenile before the court at a time and place stated.  
24 Section 938.273 ~~shall govern~~ governs the service of a summons under this  
25 paragraph, except that the expense of service or publication of a summons and of the

travelling expenses and fees ~~as allowed in ch. 885~~ of a person summoned allowed in ch. 885 shall be a charge on the municipality of the court issuing the summons when approved by the court. If any person summoned under this paragraph fails without reasonable cause to appear, he or she may be proceeded against for contempt of court under s. 785.06. If a summons cannot be served or if the person served fails to obey the summons or if it appears to the court that the service will be ineffectual, a *capias* may be issued for the juvenile and for the parent, guardian ~~and~~, or legal custodian.

(cm) Authorization for dispositions and sanctions. A city, village, or town may adopt an ordinance or bylaw specifying which of the dispositions under ss. 938.343 and 938.344 and sanctions under s. 938.355 (6) (d) and (6m) the municipal court of that city, village, or town is authorized to impose or to petition the court assigned to exercise jurisdiction under this chapter and ch. 48 to impose. The use by the court of those dispositions and sanctions is subject to any ordinance or bylaw adopted under this paragraph.

**SECTION 144.** 938.17 (2) (d) of the statutes is renumbered 938.17 (2) (d) 1. and amended to read:

938.17 (2) (d) Disposition; ordinance violations generally. 1. If a municipal court finds that the juvenile violated a municipal ordinance other than an ordinance enacted under s. 118.163 or an ordinance that conforms to s. 125.07 (4) (a) or (b), 125.085 (3) (b), 125.09 (2), 961.573 (2), 961.574 (2), or 961.575 (2), the court shall enter any of the dispositional orders permitted under s. 938.343 that are authorized under par. (cm). If a juvenile fails to pay the forfeiture imposed by the municipal court, the court may not impose a jail sentence but may suspend any license issued under ch. 29 for not less than 30 days nor more than 5 years, or suspend the juvenile's operating privilege, as defined in s. 340.01 (40), for not more than 2 years.

① SEC.#. CR; 938.17(2)(d)(title).

① 938.17(2)(d)(title)



1           2. If a court suspends a license or privilege under ~~this section~~ subd. 1., the court  
2 shall immediately take possession of the applicable license and forward it to the  
3 department that issued the license, together with the notice of suspension ~~clearly~~  
4 stating that the suspension is for failure to pay a forfeiture imposed by the court. If  
5 the forfeiture is paid during the period of suspension, the court shall immediately  
6 notify the department, which shall ~~thereupon~~ then return the license to the person.

7           **SECTION 145.** 938.17 (2) (e) (title), (f) (title) and (g) (title) of the statutes are  
8 created to read:

9           938.17 (2) (e) (title) *Disposition; alcohol and drug ordinance violations.*

10          (f) (title) *Notice to victims.*

11          (g) (title) *Disposition; truancy or school dropout ordinance violations.*

12          **SECTION 146.** 938.17 (2) (h) (title) of the statutes is created to read:

13          938.17 (2) (h) *Sanctions; dispositional order violations generally.*

14          **SECTION 147.** 938.17 (2) (h) 1. and 2. of the statutes are amended to read:

15          938.17 (2) (h) 1. If a juvenile who has violated a municipal ordinance, other  
16 than an ordinance enacted under s. 118.163 (1m) or (2), violates a condition of his or  
17 her dispositional order, the municipal court may impose on the juvenile any of the  
18 sanctions specified in s. 938.355 (6) (d) 2. to 5. that are authorized under par. (cm)  
19 except for monitoring by an electronic monitoring system ~~or~~. The municipal court  
20 may also petition the court assigned to exercise jurisdiction under this chapter and  
21 ch. 48 to impose on the juvenile the sanction specified in s. 938.355 (6) (d) 1. or home  
22 detention with monitoring by an electronic monitoring system as specified in s.  
23 938.355 (6) (d) 3., if authorized under par. (cm),. A sanction may be imposed under  
24 this subdivision only if at the time of judgment the court explained the conditions to  
25 the juvenile and informed the juvenile of the possible sanctions under s. 938.355 (6)

(d) that are authorized under par. (cm) for a violation or if before the violation the juvenile has acknowledged in writing that he or she has read, or has had read to him or her, those conditions and possible sanctions and that he or she understands those conditions and possible sanctions.

2. A motion requesting the municipal court to impose or petition for a sanction may be brought by the person or agency primarily responsible for the provision of dispositional services, the municipal attorney, or the court that entered the dispositional order. If the court initiates the motion, that court is ~~disqualified from holding~~ may not hold a hearing on the motion. Notice of the motion shall be given to the juvenile and the juvenile's parent, guardian, or legal custodian.

**SECTION 148.** 938.17 (2) (i) (title) of the statutes is created to read:

938.17 (2) (i) *Sanctions; truancy or school dropout dispositional order violations.*

**SECTION 149.** 938.17 (2) (i) 1., 2m. and 3g. of the statutes are amended to read:

938.17 (2) (i) 1. If a juvenile who has violated a municipal ordinance enacted under s. 118.163 (1m) violates a condition of his or her dispositional order, the municipal court may impose on the juvenile any of the sanctions specified in s. 938.355 (6m) (ag). A sanction may be imposed under this subdivision only if at the time of judgment the court explained the conditions to the juvenile and informed the juvenile of those possible sanctions or if before the violation the juvenile has acknowledged in writing that he or she has read, or has had read to him or her, those conditions and possible sanctions and that he or she understands those conditions and possible sanctions.

2m. If a juvenile who has violated a municipal ordinance enacted under s. 118.163 (2) violates a condition of his or her dispositional order, the municipal court

1 may impose on the juvenile any of the sanctions specified in s. 938.355 (6m) (a) that  
2 are authorized under par. (cm) except for the sanction specified in s. 938.355 (6m) (a)  
3 1g. ~~or~~ The municipal court may also petition the court assigned to exercise  
4 jurisdiction under this chapter and ch. 48 to impose on the juvenile the sanction  
5 specified in s. 938.355 (6m) (a) 1g., if authorized under par. (cm),. A sanction may  
6 be imposed under this subdivision only if at the time of judgment the court explained  
7 the conditions to the juvenile and informed the juvenile of the possible sanctions  
8 under s. 938.355 (6m) (a) that are authorized under par. (cm) for a violation or if  
9 before the violation the juvenile has acknowledged in writing that he or she has read,  
10 or has had read to him or her, those conditions and possible sanctions and that he or  
11 she understands those conditions and possible sanctions.

12 3g. A motion requesting the municipal court to impose or petition for a sanction  
13 may be brought by the person or agency primarily responsible for the provision of  
14 dispositional services, the municipal attorney, or the court that entered the  
15 dispositional order. If the court initiates the motion, that court ~~is disqualified from~~  
16 ~~holding~~ may not hold a hearing on the motion. Notice of the motion shall be given  
17 to the juvenile and the juvenile's parent, guardian, or legal custodian.

18 **SECTION 150.** 938.18 (1) (a) (intro.) of the statutes is renumbered 938.18 (1)  
19 (intro.) and amended to read:

20 938.18 (1) WAIVER OF JUVENILE COURT JURISDICTION: CONDITIONS FOR (intro.)  
21 Subject to s. 938.183, a juvenile ~~or district attorney may apply to~~ petition requesting  
22 the court to waive its jurisdiction under this chapter ~~in~~ may be filed if the juvenile  
23 meets any of the following ~~situations~~ conditions:

1 ~~1. If the (a) The juvenile is alleged to have violated s. 940.03, 940.06, 940.225~~  
2 ~~(1) or (2), 940.305, 940.31, 943.10 (2), 943.32 (2), or 961.41 (1) on or after the juvenile's~~  
3 ~~14th birthday.~~ LOWER CASE PLAIN

4 ~~2. If the (b) The juvenile is alleged to have committed, on or after the juvenile's~~  
5 ~~14th birthday, a violation, on or after the juvenile's 14th birthday at the request of~~  
6 ~~or for the benefit of a criminal gang, as defined in s. 939.22 (9), that would constitute~~  
7 ~~a felony under chs. 939 to 948 or 961 if committed by an adult.~~ PLAIN

8 ~~3. If the (c) The juvenile is alleged to have violated any state criminal law on~~  
9 ~~or after the juvenile's 15th birthday.~~

10 SECTION 151. 938.18 (1) (b) of the statutes is repealed.

11 SECTION 152. 938.18 (2) of the statutes is amended to read:

12 938.18 (2) PETITION. ~~The waiver hearing shall be brought on by filing a petition~~  
13 ~~alleging delinquency drafted under s. 938.255 and a petition for waiver of~~  
14 ~~jurisdiction which may be filed by the district attorney or the juvenile or may be~~  
15 ~~initiated by the court and shall contain a brief statement of the facts supporting the~~  
16 ~~request for waiver. The petition for waiver of jurisdiction shall be accompanied by~~  
17 ~~or filed after the filing of a petition alleging delinquency and shall be filed prior to~~  
18 ~~the plea hearing, except that if the juvenile denies the facts of the petition and~~  
19 ~~becomes 17 years of age before an adjudication, the petition for waiver of jurisdiction~~  
20 ~~may be filed at any time prior to the adjudication. If the court initiates the petition~~  
21 ~~for waiver of jurisdiction, the judge shall disqualify himself or herself from any future~~  
22 ~~proceedings on the case.~~

NOTE: ~~repealed~~ Creates a provision in s. 938.18 (2) based on current s. 938.18 (1) (b), which  
is deleted in this draft. 6, 11

23 SECTION 153. 938.18 (2m) (title) of the statutes is created to read:

1 938.18 (2m) (title) AGENCY REPORT.

2 SECTION 154. 938.18 (3) (title) and (intro.) of the statutes <sup>is</sup> are created to read:

3 938.18 (3) (title) RIGHTS OF JUVENILE. (intro.) All of the following apply at a  
4 waiver hearing under this section:

5 SECTION 155. 938.18 (3) (a), (b) and (c) of the statutes are amended to read:

6 938.18 (3) (a) The juvenile shall be represented by counsel at the waiver  
7 hearing. Written notice of the time, place, and purpose of the hearing shall be given  
8 to the juvenile, any parent, guardian, or legal custodian, and counsel at least 3 days  
9 prior to the hearing. The notice shall contain a statement of the requirements of s.  
10 938.29 (2) with regard to substitution of the judge. Where If parents entitled to notice  
11 have the same address, notice to one constitutes notice to the other. Counsel for the  
12 juvenile shall have access to the social records and other reports consistent with  
13 under s. 938.293.

14 (b) The juvenile has the right to present testimony on his or her own behalf  
15 including expert testimony and has the right to cross-examine witnesses at the  
16 hearing.

17 (c) The juvenile does not have the right to a jury at a hearing under this section.

18 SECTION 156. 938.18 (4) (a) and (b) of the statutes are amended to read:

19 938.18 (4) PROSECUTIVE MERIT; CONTESTED OR UNCONTESTED PETITION. (a) The  
20 court shall determine whether the matter has prosecutive merit before proceeding  
21 to determine if it should waive jurisdiction. If the court determines that the matter  
22 does not have prosecutive merit, it shall deny the petition for waiver.

NOTE: Clarifies s. 938.18 (4) by providing that the juvenile court must deny the  
petition for waiver if it determines that the matter does not have prosecutive merit.

SEC CR, 938.18 (4) (1)(b)  
938.18 (4) (1)(b) N

move  
note to  
82-4

move note from 81-22

1 (b) If a petition for waiver of jurisdiction is contested, the district attorney shall  
2 present relevant testimony and the court, after taking relevant that testimony which  
3 ~~the district attorney shall present~~ and considering other relevant evidence, shall  
4 base its decision whether to waive jurisdiction on the criteria specified in sub. (5).

5 **SECTION 157.** 938.18 (5) (title) of the statutes is created to read:

6 938.18 (5) (title) CRITERIA FOR WAIVER.

7 **SECTION 158.** 938.18 (5) (a) of the statutes is amended to read:

8 938.18 (5) (a) The personality and ~~prior record~~ of the juvenile, including  
9 whether the juvenile is ~~mentally ill or developmentally disabled~~, whether the court  
10 ~~has previously waived its jurisdiction over the juvenile~~, whether the juvenile has  
11 ~~been previously convicted following a waiver of the court's jurisdiction or has been~~  
12 ~~previously found delinquent, whether such conviction or delinquency involved the~~  
13 ~~infliction of serious bodily injury, the juvenile's motives and attitudes~~ has a mental  
14 illness or developmental disability, the juvenile's physical and mental maturity, and  
15 the juvenile's pattern of living, ~~prior offenses~~, prior treatment history, and apparent  
16 potential for responding to future treatment.

NOTE: The stricken language beginning with "whether the court..." is included in  
s. 938.18 (5) (am). starts, as created by the bill

17 **SECTION 159.** 938.18 (5) (am) of the statutes is created to read:

18 938.18 (5) (am) The prior record of the juvenile, including whether the court has  
19 previously waived its jurisdiction over the juvenile, whether the juvenile has been  
20 previously convicted following a waiver of the court's jurisdiction or has been  
21 previously found delinquent, whether such conviction or delinquency involved the  
22 infliction of serious bodily injury, the juvenile's motives and attitudes, and the  
23 juvenile's prior offenses.

1           **SECTION 160.** 938.18 (5) (b) of the statutes is amended to read:

2           938.18 (5) (b) The type and seriousness of the offense, including whether it was  
3           against persons or property, and the extent to which it was committed in a violent,  
4           aggressive, premeditated or willful manner, ~~and its prosecutive merit.~~

NOTE: Deletes the reference to “prosecutive merit” in s. 938.18 (5) (b) ~~is deleted~~  
because the determination of whether the matter before the court has prosecutive merit  
is governed by s. 938.18 (4) (a). stats

5           **SECTION 161.** 938.18 (6) of the statutes is amended to read:

6           938.18 (6) DECISION ON WAIVER. After considering the criteria under sub. (5),  
7           the court shall state its finding with respect to the criteria on the record, and, if the  
8           court determines on the record that it there is established by clear and convincing  
9           evidence that it ~~would be~~ is contrary to the best interests of the juvenile or of the  
10          public to hear the case, the court shall enter an order waiving jurisdiction and  
11          referring the matter to the district attorney for appropriate proceedings in the court  
12          of criminal jurisdiction, ~~and the.~~ After the order, the court of criminal jurisdiction  
13          thereafter has exclusive jurisdiction.

14          **SECTION 162.** 938.18 (7) (title), (8) (title) and (9) (title) of the statutes are  
15          created to read:

16          938.18 (7) (title) JUVENILE WHO ABSCONDS.

17          (8) (title) TRANSFER TO ADULT FACILITY; BAIL.

18          (9) (title) CRIMINAL CHARGE.

19          **SECTION 163.** 938.183 (1) (title) of the statutes is created to read:

20          938.183 (1) (title) JUVENILES UNDER ADULT COURT JURISDICTION.

21          **SECTION 164.** 938.183 (1) (a) and (am) of the statutes are amended to read:

22          938.183 (1) (a) A juvenile who has been adjudicated delinquent and who is  
23          alleged to have violated s. 940.20 (1) or 946.43 while placed in a secured juvenile

(1) correctional facility, a ~~secure~~ juvenile detention facility, ~~a secured child caring~~  
institution or a secured ~~group home~~ residential care center for children and youth  
or who has been adjudicated delinquent and who is alleged to have committed a  
violation of s. 940.20 (2m).

(am) A juvenile who is alleged to have attempted or committed a violation of  
s. 940.01 or to have committed a violation of s. 940.02 or 940.05 on or after the  
juvenile's 10th birthday, ~~but before the juvenile's 15th birthday.~~

NOTE: This language is ~~repealed~~ <sup>deleted</sup> to reflect the reorganization of s. 938.183 (1m) and  
(2) starts by this bill

SECTION 165. 938.183 (1m) (intro.) and (c) 1. and 2. of the statutes are amended  
to read:

938.183 (1m) CRIMINAL PENALTIES AND PROCEDURES. (intro.) Notwithstanding  
subchs. IV to VI, a juvenile described in sub. (1) is subject to the procedures specified  
in chs. 967 to 979 and the criminal penalties ~~provided~~ for the crime that the juvenile  
is alleged to have committed except as follows:

(c) 1. ~~The~~ Except as provided in subd. 3., the court of criminal jurisdiction finds  
that the juvenile has committed a lesser offense or a joined offense that is not a  
violation of s. 940.20 (1) or (2m) or 946.43 under the circumstances described in sub.  
(1) (a), that is not an attempt to violate s. 940.01 under the circumstances described  
in sub. (1) (am), that is not a violation of s. 940.02 or 940.05 under the circumstances  
described in sub. (1) (am) <sup>2</sup> and that is not an offense for which the court assigned to  
exercise jurisdiction under this chapter and ch. 48 may waive its jurisdiction over the  
juvenile under s. 938.18.

2. ~~The~~ Except as provided in subd. 3., the court of criminal jurisdiction finds  
that the juvenile has committed a lesser offense or a joined offense that is a violation



1 of s. 940.20 (1) or (2m) or 946.43 under the circumstances described in sub. (1) (a),  
2 that is an attempt to violate s. 940.01 under the circumstances described in sub. (1)  
3 (am), that is a violation of s. 940.02 or 940.05 under the circumstances described in  
4 sub. (1) (am) or that is an offense for which the court assigned to exercise jurisdiction  
5 under this chapter and ch. 48 may waive its jurisdiction over the juvenile under s.  
6 938.18 and the court of criminal jurisdiction, after considering the criteria specified  
7 in s. 938.18 (5), determines that the juvenile has proved by clear and convincing  
8 evidence that it would be in the best interests of the juvenile and of the public to  
9 adjudge the juvenile to be delinquent and impose a disposition specified in s. 938.34.

10 **SECTION 166.** 938.183 (2) of the statutes is renumbered 938.183 (1m) (c) 3. and  
11 amended to read:

12 938.183 (1m) (c) 3. ~~Notwithstanding ss. 938.12 (1) and 938.18, courts of~~  
13 ~~criminal jurisdiction have exclusive original jurisdiction over~~ For a juvenile who is  
14 alleged to have attempted or committed a violation of s. 940.01 or to have committed  
15 a violation of s. 940.02 or 940.05 on or after the juvenile's 15th birthday.  
16 ~~Notwithstanding ss. 938.12 (1) and 938.18, courts of criminal jurisdiction also have~~  
17 ~~exclusive original jurisdiction over a juvenile specified in the preceding sentence who~~  
18 ~~is alleged to have attempted or committed a violation of any state law in addition to~~  
19 ~~the violation alleged under the preceding sentence if the violation alleged under this~~  
20 ~~sentence and the violation alleged under the preceding sentence may be joined under~~  
21 ~~s. 971.12 (1). Notwithstanding subchs. IV to VI, a juvenile who is alleged to have~~  
22 ~~attempted or committed a violation of s. 940.01 or to have committed a violation of~~  
23 ~~s. 940.02 or 940.05 on or after the juvenile's 15th birthday and a juvenile who is~~  
24 ~~alleged to have attempted or committed a violation of any state criminal law, if that~~  
25 ~~violation and an attempt to commit a violation of s. 940.01 or the commission of a~~

1 violation of s. 940.01, 940.02 or 940.05 may be joined under s. 971.12 (1), is subject  
2 to the procedures specified in chs. 967 to 979 and the criminal penalties provided for  
3 the crime that the juvenile is alleged to have committed, except that the court of  
4 criminal jurisdiction shall, in lieu of convicting the juvenile, adjudge the juvenile to  
5 be delinquent and impose a disposition specified in s. 938.34 if, the court of criminal  
6 jurisdiction finds that the juvenile has committed a lesser offense than the offense  
7 alleged under this subsection or has committed an offense that is joined under s.  
8 971.12 (1) to an attempt to commit a violation of s. 940.01 or to the commission of a  
9 violation of s. 940.01, 940.02 or 940.05, but has not attempted to commit a violation  
10 of s. 940.01 or committed a violation of s. 940.01, 940.02 or 940.05, and the court of  
11 criminal jurisdiction, after considering the criteria specified in under s. 938.18 (5),  
12 determines that the juvenile has proved by clear and convincing evidence that it  
13 would be in the best interests of the juvenile and of the public to adjudge the juvenile  
14 to be delinquent and impose a disposition specified in under s. 938.34.

15 **SECTION 167.** 938.183 (3) of the statutes is amended to read:

16 938.183 (3) PLACEMENT IN STATE PRISON; PAROLE. When a juvenile who is subject  
17 to a criminal penalty under sub. (1m) ~~or (2)~~ or s. 938.183 (2), 2003 stats., attains the  
18 age of 17 years, the department may place the juvenile in a state prison named in s.  
19 302.01, except that the department may not place any person under the age of 18  
20 years in the correctional institution authorized in s. 301.16 (1n). ~~If a juvenile who~~  
21 ~~is subject to a criminal penalty under sub. (1m) or (2) is 15 years of age or over, the~~  
22 ~~department may transfer the juvenile to the Racine youthful offender correctional~~  
23 ~~facility named in s. 302.01 as provided in s. 938.357 (4) (d).~~ A juvenile who is subject  
24 to a criminal penalty under sub. (1m) ~~or (2)~~ or under s. 938.183 (2), 2003 stats., for  
25 an act committed before December 31, 1999, is eligible for parole under s. 304.06.